

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Johnny Hall, Jr.,

Case No. 3:08 CV 470

Petitioner,

MEMORANDUM OPINION  
AND ORDER

-vs-

JUDGE JACK ZOUHARY

Clifford Smith, Warden,

Respondent.

The Court has reviewed the Report and Recommendation of the Magistrate Judge filed January 13, 2009 in this matter. Under the relevant statute (28 U.S.C. § 636(b)(1)(C) (1982)):

Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

In this case, the ten-day period has elapsed and no objections have been filed. The failure to file written objections constitutes a waiver of a *de novo* determination by the district court of an issue covered in the report. *United States v. Sullivan*, 431 F.3d 976, 984 (2005).

The Court adopts the Magistrate Judge's Report and Recommendation (Doc. No. 9) in its entirety. The Court concurs that the Petition is time-barred under 28 U.S.C. § 2244(d)(1)(D) because it was filed February 26, 2008, almost twenty-three months after the statute of limitations expired on April 27, 2006.

IT IS SO ORDERED.

s/ Jack Zouhary  
JACK ZOUHARY  
U. S. DISTRICT JUDGE

February 6, 2009